

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO TEXAS DIVISION**

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JOSEPH OLINICK,	§	
	§	
Plaintiff,	§	
	§	
v.	§	<b>Civil Case No.</b>
	§	
CARDWORKS SERVICINIG, LLC,	§	
	§	
Defendant.	§	
	§	

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

JOSEPH OLINICK (Plaintiff), through his attorneys, KROHN & MOSS, LTD., alleges the following against CARDWORKS SERVICINIG, LLC. (Defendant):

**INTRODUCTION**

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

**JURISDICTION AND VENUE**

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

## **PARTIES**

6. Plaintiff is a natural person residing at Waco, McLennan County, Texas.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is an alleged debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a limited liability company located in Woodbury, New York.

## **FACTUAL ALLEGATIONS**

10. Beginning January of 2010, Defendant began constantly and continuously placing collection calls to Plaintiff seeking and demanding payment for an alleged debt owed to Merrick Bank.
11. Defendant called Plaintiff from 877-487-5583, often calling Plaintiff two to three (2-3) times per day for a period of six months.
12. On January 14, January 15, January 16, January 20, January 22, and January 23 of 2010, Defendant made two (2) calls per day to Plaintiff.
13. On February 15, February 17, and February 20, of 2010, Defendant made two (2) calls per day to Plaintiff.
14. On March 1, March 6, March 9, March 10, March 13, and March 19, Defendant made two (2) calls per day to Plaintiff.
15. On March 3 and March 8 of 2010, Defendant made three (3) calls per day to Plaintiff.
16. On April 2, April 24, and April 30 of 2010, Defendant made two (2) calls per day to Plaintiff.
17. On May 8, May 22, May 26, and May 28, Defendant made two (2) calls per day to Plaintiff.
18. On June 5, June 9, June 10, and June 11, Defendant made two (2) calls per day to Plaintiff.

19. On June 18, and June 28 Defendant made three (3) calls per day to Plaintiff.
20. On July 2, July 5, July 6, July 15, July 19, July 22, and July 26 Defendant made two (2) calls per day to Plaintiff.
21. Finally, on July 6, 2010, Defendant called Plaintiff a total of four (4) times in one day.

**COUNT I**  
**DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

22. Defendant violated the FDCPA based on the following:
  - a. Defendant violated §1692d of the FDCPA by engaging in conduct that the natural consequences of which was to harass, oppress, and abuse Plaintiff in connection with the collection of an alleged debt; and
  - b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.

WHEREFORE, Plaintiff, JOSEPH OLINICK, respectfully requests judgment be entered against Defendant, CARDWORKS SERVICINIG, LLC., for the following:

23. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k;
24. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k; and
25. Any other relief that this Honorable Court deems appropriate.

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, JOSEPH OLINICK, demands a jury trial in this case.

Dated: June 2, 2011

RESPECTFULLY SUBMITTED,

KROHN & MOSS, LTD.

By: /s/ Michael S. Agruss  
Michael S. Agruss  
California State Bar Number: 259567  
Krohn & Moss, Ltd.  
10474 Santa Monica Blvd., Suite 401  
Los Angeles, CA 90025  
Tel: 323-988-2400 x235  
Fax: 866-620-2956  
magruss@consumerlawcenter.com  
Attorneys for Plaintiff,  
JOSEPH OLINICK

**VERIFICATION OF COMPLAINT AND CERTIFICATION**

STATE OF TEXAS

Plaintiff, JOSEPH OLINICK, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

Pursuant to 28 U.S.C. § 1746(2), I, JOSEPH OLINICK, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

6/2/2011  
Date

Joseph Olinick  
JOSEPH OLINICK